IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Writ Petition No.3803/2006
Ku. Pratima d/o Nilkanth Walde
Vs.
Union of India and another

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

CORAM : **A.P. LAVANDE & R. V. MORE, JJ.**
DATED : 17th October**, 2007**

Mr. Badhe, learned counsel for the petitioner restrict this writ petition as far as challenge to the order dated 12th July, 2002 passed by CAT in O.A. No. 2155/2002 is concerned.

The petitioner filed the above said Original Application before CAT for grant of employment on compassionate ground considering his educational qualification. The learned Member of CAT rejected the petitioner's application on the ground that the petitioner is the daughter of second wife of deceased employee. The learned Member of CAT while giving this finding relied upon Circular of Railway Board dated 2.1.1992 under which second widow and her children are not to be considered unless the

administration has permitted the second marriage in special circumstances, taking into account the personal law etc. It is not the case of the petitioner that deceased employee got married with her mother second time with prior permission of the Department.

Mr. Badhe submitted that under the Establishment Rules son, daughter and close relatives are entitled to compassionate appointment and the Rules do not exclude illegitimate daughter. This contention of Mr. Badhe cannot be accepted as firstly, he has not challenged the Circular mentioned above under which second wife and issues out of second marriage are not entitled for compassionate appointment on the ground that the same is contrary to the Rules and secondly, the Rule pre-supposes son and daughter means legitimate son and legitimate daughter. Apart from this, the writ petition is filed after delaying of about four years. Therefore, we are of the opinion that this delay is not properly explained and on this ground also, the writ petition needs to be dismissed.

In this view of the matter, we do not find any substance in the submissions of Mr. Bade. The writ petition is devoid of substance and needs to be

dismissed.

Needless to mention that the petitioner is at liberty to challenge the order dated 17th June 2005 passed by the CAT in Original Application No. 2197/2002, if permissible under the law.

The writ petition is disposed of in the aforesaid terms with no order as to costs.

JUDGE **JUDGE**

MLA.